

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

In Re: 20-10583-MSH)	Chapter 13 Proceeding
)	
John Medeiros, Jr.)	
Debtor)	
)	
Santander Bank, N.A.)	
Movant)	
)	
vs.)	
)	
John Medeiros, Jr.)	
and Carolyn Bankowski-13, Trustee)	
Respondent)	<u>January 14, 2021</u>

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Santander Bank, N.A. (the "Movant") hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of **John Medeiros, Jr.** (the "Debtor") having an address of 395 Grinnell Street, Fall River, Massachusetts 02721 (the "Property"). In support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor on February 28, 2020.
2. To date the plan has not been confirmed.

3. The Debtor has executed and delivered or is otherwise obligated with respect to that certain promissory note in the original principal amount of \$40,000.00 (the "Note"). A copy of the Note is attached hereto as Exhibit A. Movant is an entity entitled to enforce the Note and Mortgage (defined below).

4. Pursuant to that certain Massachusetts Closed-End Mortgage (the "Mortgage") to Sovereign Bank, all obligations (collectively, the "Obligations") of the Debtor under and with respect to the Note and the Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit B.

5. As of December 21, 2020, the approximate outstanding amount of the obligations due under said note and mortgage less any partial payments or suspense balance is \$42,573.13.

6. As of December 21, 2020, the Debtor has failed to make post-petition payments in an aggregate amount sufficient to satisfy in full the post-petition payment contractually due under the Note on August 5, 2020 or any full payment contractually due under the Note thereafter for a total post-petition payment arrearage of \$1,391.30, broken down as follows: 5 payments each in the amount of \$278.26, less suspense balance of \$0.00. See Official Form 13 which is attached hereto and integrated as if set forth in full. The total pre-petition arrearage owed to the Movant was \$9,603.19.

7. The estimated market value of the Property is \$216,000.00. The basis for such valuation is Debtor's Schedule A. For purposes of this motion, it is the Movant's opinion that the liquidation value of the premises is \$201,555.04, calculated as the fair market value less a reasonable Realtor's fee of 6%, \$12,960.00, deed stamps of \$984.96, and anticipated costs incurred for a real estate closing of \$500.00.

8. Upon information and belief, the encumbrances on the Property listed in the Debtor's

Schedules or otherwise known including but not limited to the encumbrances granted to Movant, listed in order of priority, are: (i) Santander Bank NA \$80,915.00; (ii) Movant \$42,573.13; (iii) Compass Bank/Santander \$41,557.00; (iv) Capital One Bank \$2,500.35; and (v) Discover Fin Svcs LLC \$3,034.73.

9. The estimated total amount of encumbrances on the Property is \$170,580.21.

10. There is no other collateral securing Debtor's obligation to the Movant.

11. Upon information and belief a Declaration of Homestead has not been recorded.

12. Pursuant to 11 U.S.C. § 362(d)(1), cause exists for relief from the automatic stay for the following reasons:

a. Post-petition payments have not been made.

13. The Movant also requests that this Court order that Bankruptcy Rule 4001(a)(3) is not applicable so that Movant may immediately enforce and implement the requested order modifying the automatic stay.

14. The Debtor, by and through counsel, and the Trustee have assented to the Motion for Relief from the Automatic Stay.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the followir g:

1. Relief from the stay al owing Movant and any successors or assigns to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.
2. That the 14-day stay of by Bankruptcy Rule 4001(a)(3) be waived.

3. For such other relief as the Court deems proper.

Santander Bank, N.A.

By /s/Richard T. Mulligan
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